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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,371	09/11/2006	Frank Ragen	P00251US1	7966
21805	7590	09/18/2008		
JAMES C WESEMAN LAW OFFICES OF JAMES C WESEMAN 401 WEST A STREET SUITE 1600 SAN DIEGO, CA 92101			EXAMINER CONLEY, FREDRICK C	
			ART UNIT 3673	PAPER NUMBER
			MAIL DATE 09/18/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/550,371

Applicant(s)

RAGEN, FRANK

Examiner

FREDRICK C. CONLEY

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF 298)
Paper No(s)/Mail Date ____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 4,862,535 to Roberts.

Claim 1, Roberts discloses a baby support comprising:

(a) a wrap member 200 sized to substantially encapsulate the baby, said wrap member comprising means 114 for receiving a support pad and positioning said support pad so as to support at least the head, neck and upper back of the baby; and

(b) security means (220,222) for securing said baby to said wrap member comprising at least one security panel attached to said wrap member which releasably secures the baby in a pre-selected position on the wrap member.

Claim 2, Roberts discloses the baby support of Claim 1, wherein said security means comprises a plurality of panels.

Claim 3, Roberts discloses the baby support of Claim 2, wherein at least two of the panels comprise means for releasably attaching said panels together for securing the baby in position on the wrap member.

Claim 4, Roberts discloses the baby support of Claim 1, wherein the means for receiving a support pad comprises a piece of material secured to the wrap member about the periphery of the material so as to form a pouch configured to receive the

support pad therein, and thereby maintain the support pad in a desired position with respect to the wrap member (fig. 4).

Claim 5, Roberts discloses the baby support of Claim 1, wherein the means for receiving a support pad comprises a cover panel for receiving the support pad, the cover panel releasably attached to the wrap member and thereby maintain the support pad in a desired position with respect to the wrap member.

Claim 6, Roberts discloses the baby support of Claim 1, wherein the wrap member further comprises means for releasably securing the wrap member about the baby when the baby is encapsulated in the wrap member.

Claim 7, Roberts discloses the baby support of Claim 1 further comprising at least one support pad.

Claim 8, Roberts discloses the baby support of claim 7, wherein the support pad is sized to support at least the head, neck and upper back regions of the baby.

Claim 9, Roberts discloses the baby support of claim 8, wherein the support pad is sized to support at least the head, neck and torso regions of the baby.

Claim 11, Roberts discloses the baby support of claim 7, wherein the support pad is sufficiently resilient so as to generally conform to the adjacent contour of the baby when the wrap member is secured around the baby (col. 6 lines 4-16).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 4,862,535 to Roberts.

Claim 10, Roberts discloses the baby support of claim 8, but fails to disclose the support pad having wider and narrow portions. It is considered an obvious modification to alter the shape of a structural component and it would have been obvious to have the support pad being wider across a portion and a portion being narrower in order to provide an alternative design.

Claim 12, Roberts discloses the baby support of Claim 11, but fails to disclose the resilient support pad being constructed from a foam material. It is considered an obvious modification to merely select from a plethora of known material and it would have been obvious to employ foam in order to provide a suitable and alternative material for the filler.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FREDRICK C. CONLEY whose telephone number is (571)272-7040. The examiner can normally be reached on M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, PATRICIA L. ENGLE can be reached on 571-272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/FREDRICK C CONLEY/
Primary Examiner, Art Unit 3673